

Appl. No. : 10/797,985
Filed : March 9, 2004

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REMARKS

Applicant thanks Examiner Pham for the informative interview on October 27, 2005. In response to the Office Action, dated August 26, 2005 and pursuant to the discussions at the interview, Applicant cancels claims 1-46, and provides the foregoing new claims 47-84 for examination on the merits. No new subject matter is added in claims 47-84 and Applicant respectfully submits that claims 47-84 are now in condition for allowance.

Discussion of Interview

Applicant and Examiner Pham met for an interview on October 27, 2005 to discuss proposed claims 47 and 67, and the cited prior art. In particular, Examiner Pham and Applicant discussed the distinguishing features of proposed claims over the subject matter disclosed in Wells, which teaches a method and device for "purifying the atmosphere" (col. 8, 41-42) but does not teach all the limitations of the proposed claims. Miller, which discloses mechanical air filtration indicator for indicating when a filter needs to be replaced (col. 1, 34-37), and Wang, which discloses oleophobic and hydrophobic filters (Abstract) were also discussed but neither Miller nor Wang includes subject matter that cures the deficiencies of Wells as anticipating prior art for claims 47 and 67, or of claim 82. As discussed in the interview, the novelty of the new claims was not disclosed by the prior art of record. Applicant agreed to submit new claims, which included the limitations discussed in the interview and the Examiner stated that although the proposed claims appear to be free from Wells, and/or Miller and/or Wang, another prior art search was necessary.

New Claims 47-84

Claims 47-84 are respectfully submitted for further examination pursuant to the discussions at the interview. Claims 47-84 do not contain new matter. Support for claims 47-84 can be found in the specification and drawings in at least the following paragraphs: 7, 8, 22, 23, 27, 28, 29, 32, 35, 36, 38, 40, 44, 47, 51, 64, and 66.

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Discussion of Claim Rejections Under 35 U.S.C. § 102(b)

In the Office Action, claims 1-3, 6-22, 26-28, 31-39, 42, 43, 45, and 46 were rejected under 35 U.S.C. § 102(b) as being anticipated by Wells (U.S. Patent No. 5,509,853). Although Applicant believes this rejection is moot based on the present amendments and interview, Applicant respectfully traverses this rejection to the extent it applies to claims 47-84 submitted for examination herein.

Applicant respectfully submits that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. See M.P.E.P. § 2131. As discussed in the interview, Applicant respectfully submits that Wells does not teach or suggest at least all the limitations of independent claims 47 and 67, nor does it teach or suggest all the limitations of claim 82.

For example, the Wells does not teach or suggest the subject matter of the limitations "an element comprising a material configured to retain roadway pollutant particles, that are 10µm or less," that are "liberated from said roadway by a tire of said vehicle," or that the "element is affixed to said vehicle at a location that receives a spray of said liberated roadway pollutant particles" as embodied in claim 47 (show below):

47. An apparatus on a vehicle for collecting pollutant particles liberated from a roadway, comprising:
an element comprising a material configured to retain roadway pollutant particles, that are 10µm or less, which are liberated from said roadway by a tire of said vehicle, wherein said element is affixed to said vehicle at a location that receives a spray of said liberated roadway pollutant particles. (*emphasis added*).

Nor does Wells disclose such limitations as included in claim 67:

67. A method for collecting pollutants liberated from a roadway surface, the method comprising:
positioning an element to receive a spray of roadway pollutant particles that are liberated from the roadway by a tire of a vehicle, wherein said element comprises a material configured to collect said pollutant particles that are 10µm or less;
contacting the roadway with a tire of the vehicle;
rotating the tire to liberate pollutant particles from the roadway;
receiving said pollutant particles on said material; and
collecting at least a portion of said pollutant particles on said material. (*emphasis added*).

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Or as included in claim 82:

82. A system for collecting pollutant particles liberated from a roadway, comprising:
a vehicle comprising at least one tire; and
an element comprising a material configured to retain roadway pollutant particles, that are 10 μ m or less, which are liberated from said roadway by said tire of said vehicle wherein said element is affixed to said vehicle at a location that receives a spray of said liberated roadway pollutant particles.

Instead, the invention in Wells "is directed to removing pollution in the ambient air itself, purifying such air directly." (col. 2, 37-42). In Wells, the air pollution receptacles are essentially dragged through ambient air by a vehicle or trailer and configured to filter passing air so it is returned in a purified state to the environment, and specifically discloses a manufacture and method "for purifying ambient polluted air in the atmosphere through which these vehicles travel and return it immediately or directly to the ambient air." (FIGs. 1, 2, and 7; col. 2, 25-30). Wells clarifies its purpose as "[a]n object of the invention is to purify polluted ambient air in the atmosphere above the planet earth's surface." (col. 4, 22-24). However, in purifying the atmosphere Wells does not teach or suggest an "element comprising a material configured to retain roadway pollutant particles, that are 10 μ m or less, which are liberated from said roadway by a tire of said vehicle wherein said element is affixed to said vehicle at a location that receives a spray of said liberated roadway pollutant particles" as claimed in claim 47, or the limitations shown above in claims 67 and 82.

Because the prior cited does not disclose the limitations of the claims 47, 67, or 82, Applicant respectfully submits that claims 47, 67, and 82 are new are in condition for allowance. As claims 48-66, 68-81, and 83-84 are dependent either directly or indirectly on claims 47, 67, or 82, Applicant posits that claims 48-66, 68-81, and 83-84 are also in condition for allowance for at least the same reasons.

Discussion of Claim Rejections Under 35 U.S.C. § 103

In the Office Action, claims 4, 5, 29, 30, 40, 41 and 44 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wells (U.S. Patent No. 5,509,853) in view of Wang et al. (U.S. Patent Publication No. U.S. 2002/0139095 A1). Claims 23-25 were also rejected under

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35 U.S.C. §103(a) as being unpatentable over Wells in view of Miller (U.S. Patent No. 6,743,281 B1). Applicant respectfully traverses this rejection to the extent that it applies to claims 47-84 submitted for examination herein. Although Applicant believes these rejections are moot, because Wells, and/or Miller and/or Wang a method or apparatus for collecting pollutant particles liberated from a roadway surface by the contact of a rotating tire and the roadway. Accordingly, Applicant respectfully submits claims 47-84 are now in condition for allowance such a determination is earnestly solicited.

CONCLUSION

Applicant's now presents claims with limitations that were agreed upon at the interview to distinguish the present application over the prior art of record. The applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. Accordingly, amendments to the claims for patentability purposes pursuant to statutory sections 102 and 103 the reasons therefor, and arguments in support of the patentability of the pending claim set are presented above. In light of these amendments and remarks, reconsideration and withdrawal of the outstanding rejections is respectfully requested.

Any claim amendments which are not specifically discussed in the above remarks are not made for patentability purposes, and it is believed that the claims would satisfy the statutory requirements for patentability without the entry of such amendments. Rather, these amendments have only been made to increase claim readability, to improve grammar, and to reduce the time and effort required of those in the art to clearly understand the scope of the claim language. Furthermore, any new claims presented above are of course intended to avoid the prior art, but are not intended as replacements or substitutes of any cancelled claims. They are simply additional specific statements of inventive concepts described in the application as originally filed.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

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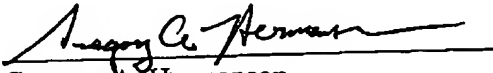
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Respectfully submitted,

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AMEND

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